



BOARD OF DIRECTORS

**SUSAN DAVIDSON**

President

Madison

**DAVE CLAUSEN**

Amery

**DAN COLLINS**

Sturgeon Bay

**TOM DAWSON**

Hawaii

**MAUREEN FREEDLAND**

Vice President

La Crosse

**JAMIE FERSCHINGER**

Milwaukee

**JAN GENTRY**

Treasurer

Madison

**BETSY LAWTON**

Secretary

Minneapolis, MN

**MELISSA SCANLAN**

Founder

Milwaukee

**RAFAEL SMITH**

Milwaukee

**TRICIA ZUNKER**

Wausau

**ARLEN CHRISTENSON**

Emeritus Board Member

Madison

STAFF

**TONY WILKIN GIBART**

Executive Director

**RY CARPENTER**

**ANDREA GELATT**

**CAROLINE GRIFFITH**

**ROB LEE**

**HANNAH MORTENSEN**

**JORGE ROMAN-ROMERO**

**PEG SHEAFFER**

**ADAM VOSKUIL**

**JODI HABUSH SINYKIN**

Of Counsel

*Submitted electronically via [line5tunneleis.com](http://line5tunneleis.com)*

October 14, 2022

U.S. Army Corps of Engineers - Detroit District  
16501 Shady Grove Road  
P.O. Box 10178  
Gaithersburg, MD 20898

RE: Line 5 Tunnel EIS Scoping Comments

To Whom It May Concern:

Enclosed are the comments of Midwest Environmental Advocates on the scope of the environmental impact statement that the U.S. Army Corps of Engineers intends to prepare for Enbridge Energy, LP's proposal to construct a tunnel that would house a replacement segment of its Line 5 oil pipeline crossing the Straits of Mackinac.

Please reach out to Staff Attorney Rob Lee at [rlee@midwestadvocates.org](mailto:rlee@midwestadvocates.org) or (608) 251-5047 x. 8 if you have any questions or concerns.

Sincerely,

/s/

Heidi Jimenez  
*Paralegal Intern*

**MIDWESTADVOCATES.ORG**

612 W MAIN STREET, SUITE 302 P 608.251.5047  
MADISON, WISCONSIN 53703 F 608.268.0205

## **MIDWEST ENVIRONMENTAL ADVOCATES' COMMENTS ON THE SCOPE OF THE ENVIRONMENTAL IMPACT STATEMENT FOR ENBRIDGE'S PROPOSED LINE 5 TUNNEL PROJECT IN THE STRAITS OF MACKINAC**

Midwest Environmental Advocates (“MEA”) thanks the U.S. Army Corps of Engineers (“USACE”) for providing the public with the opportunity to comment on the scope of the environmental impact statement (“EIS”) that will be prepared for Enbridge Energy, LP’s proposal to construct a tunnel that’s will house a replacement segment of its Line 5 oil pipeline crossing the Straits of Mackinac (“the Project”). In order to ensure the EIS informs all agency actions related to the Project, USACE must ensure the scope of the EIS is broad and thorough enough to evaluate all impacts to the unique landscapes, watersheds, and other environmentally sensitive resources implicated by the Project.

Before discussing specific issues to include in the EIS, it is important to note that Line 5 was originally constructed in 1953, which predates the passage of the National Environmental Policy Act (“NEPA”). Thus, the environmental and other impacts of Line 5 being constructed and operating through the Straits of Mackinac and surrounding areas were never subject to full environmental review. Similarly, the broader impacts of the entire line, as well as impacts from the refining and combustion of the petroleum products the line transmits, have not been assessed through this frame. USACE therefore has an obligation to subject not only the Project, but also what the Project facilitates—the continued operation of Line 5—to the rigorous environmental review process now required under Federal law.<sup>1</sup>

### **I. Project Overview and Regulatory Process**

When assessing crude oil and natural gas liquids supply and demand, the EIS must clearly delineate the geographic scope of the supply and demand of the Project. Exactly how much of each substance, raw or refined into other petroleum products, e.g., propane, does Line 5 supply to Michigan versus elsewhere? Enbridge must provide this information to USACE so that it can properly evaluate the short and long term “economic advantages and disadvantages of this proposal” to the people of Michigan and the greater Midwest and Great Lakes regions.<sup>2</sup>

### **II. Project Description**

Several areas must be addressed in assessing the proposed Project and the operational procedures of Line 5. The Notice of Intent (“NOI”) prepared by USACE states Enbridge will decommission the existing submerged Line 5 dual pipelines crossing the Straits by purging, cleaning, and abandoning them in place, then construct a tunnel underneath the lakebed of the Straits housing the proposed new 30-inch single pipeline.<sup>3</sup> The EIS should assess the long-term impacts of leaving the decommissioned segment in place versus removing the pipeline and returning the surrounding area to its prior condition. Further, USACE must similarly evaluate impacts of the eventual decommissioning or replacement of new segment resulting from the Project, and the full extent of

---

<sup>1</sup> 39 C.F.R. § 775.11(a)(2).

<sup>2</sup> 39 C.F.R. § 775.11(c)(6)(ii).

<sup>3</sup> Notice of Intent, 87 Fed. Reg. 50074 (Aug. 15, 2022).

Line 5, once it is no longer in use. USACE must also examine the impacts of Enbridge's plans for operating and maintaining the new segment resulting from the Project. The human and environmental health hazards of chemical constituents of the crude oil and any additives carried through Line 5 must be considered to understand impacts in the event of a spill. USACE must also obtain more information on Enbridge's proposed methods and procedures to be used to maintain the pipeline right-of-way. The NOI does not discuss the maintenance of permanent rights-of-way and contains no information regarding plans or methods to maintain those areas.

### **III. Project Alternatives**

While the NOI offers very general non-descript alternative methods, it fails to consider an alternative where this Project is not needed, and Line 5 could be decommissioned.<sup>44</sup> USACE must obtain more information on Enbridge's proposed alternative methods. In the context of evaluating alternatives, USACE must evaluate the demand projections for the oil that Enbridge proposes to transport through the new segment resulting from the Project. Demand for transportation from western Canada may fall in the coming months and years because of a decline in overall market demand and because of energy conservation measures, growth in renewable energy capacity, and/or economic downturn. It is important to consider this alternative in addition to other ways to meet demand and deliver petroleum products to sites in Michigan, Sarnia, Ontario, and beyond.

### **IV. Affected Environment – Detailed Description**

A detailed description of the overall Great Lakes watershed as well as the specific sub-watersheds should consider the numerous unique characteristics of areas the Project will impact. These include connecting surface waters such as, rivers and streams; lakebed soils and vegetation; high levels of sedimentation, extensive and internationally significant wetlands; groundwater in the surrounding land areas; and the ultimate receiving waters of Lakes Michigan and Huron.

### **V. Direct, Secondary, and Cumulative Effects of the Proposed Project and Alternatives**

MEAs begin this section with a note regarding the geographic scope of impacts considered before discussing specific issues to include in this section. The Project will facilitate the continued operation of Line 5 and USACE must consider the ongoing impacts to the entire Project area and not just along the pipeline construction work zone. As water, air, plants, and animals do not respect such a narrow view, it is paramount that USACE consider the impacts the Project will have to the Great Lakes watershed, the surrounding airshed, and the broader expanse of the ecosystems and ranges of animals present in the proposed Project area. This also means considering the Anishinaabe Tribes treaty-ceded territory through which many of the plants and animals in the Great Lakes watershed range. To properly consider all direct, secondary, and cumulative effects, this broader geographic scope is essential.

Beyond the geographic scope, there are many issues that should be included in this section of the EIS, and MEA provides the following discussion on select topics to encourage USACE to fully consider related impacts.

---

<sup>4</sup> Notice of Intent, 87 Fed. Reg. 50074 (Aug. 15, 2022).

### **A. Ecologically Significant Areas**

Areas including the multiple islands, endless miles of shoreline, the various marshes, and Lakes Michigan and Huron must be studied with particular attention, given their unique ecological and cultural roles in the region. Any potential detrimental impacts must be clearly identified so that the EIS can properly inform all decisions that might impact these unique sites.

### **B. Tribal Treaty Rights and Resources**

The NOI fails to mention the treaty rights of the Anishinaabe people at all, despite the fact that the Project would cut through the waters of treaty-ceded territory. Tribes of the Anishinaabe people hold the legal right to hunt, fish, and gather numerous plants and animals throughout this territory. Any impacts to the animals and plants reserved by the Tribes must be robustly considered in collaboration with the Great Lakes Indian Fish and Wildlife Commission (“GLIFWC”) and the Tribes. Further, attention must be paid to potentially impeded access for Tribal members wishing to harvest treaty resources, especially given the Thirteenth Article of the 1836 Treaty.

### **C. Green House Gas Emissions – Climate Change**

Considerations of greenhouse gas emissions must be robust, with the continued operation of Line 5 in its entirety taken into account. All stages of production, including extraction, transportation, processing, and end use must be considered. Equally important is to consider climate change impacts to local and regional communities. Numerous reports detail impacts in the area such as coastal erosion, warming of inland waterways, and more frequent and intense storms. Here too, many treaty-protected resources face harm.<sup>5</sup> Broader climate change impacts are also crucial to consider, including effects on agricultural production, human physical and mental health, and ecosystem-wide impacts.

### **D. Health**

Given the COVID-19 endemic, the EIS should also consider the increased potential risks to public health from the influx of workers in the region to complete construction activities. Enbridge already employs many out of state workers in the area, who often travel back to their home states on weekends. This pattern increases the risk of infections in the area, and the potential strain on local health care facilities.

There is also a documented connection between pipeline projects and the epidemic of Missing and Murdered Indigenous Women and Girls.<sup>6</sup> As Tribes, the State, and the federal government have all recognized this grave epidemic and prioritized taking action to address it,<sup>7</sup> the EIS should also consider how the Project might affect and contradict these governmental priorities.

---

<sup>5</sup> Great Lakes Indian Fish and Wildlife Commission, Climate Change Vulnerability Assessment (2018), [https://glifwc.org/ClimateChange/GLIFWC\\_Climate\\_Change\\_Vulnerability\\_Assessment\\_Version1\\_April2018.pdf](https://glifwc.org/ClimateChange/GLIFWC_Climate_Change_Vulnerability_Assessment_Version1_April2018.pdf).

<sup>6</sup> New Republic, The Connection Between Pipelines and Sexual Violence (2019), <https://newrepublic.com/article/155367/connection-pipelines-sexual-violence>.

<sup>7</sup> U.S. Dep’t of Justice, Missing and Murdered Indigenous Persons (2020), [https://www.justice.gov/usao-wdmi/pr/2020\\_1218\\_MMIP](https://www.justice.gov/usao-wdmi/pr/2020_1218_MMIP).

## **E. Invasive Species**

It is important to consider the likelihood of the spread of invasive species through both the construction process and maintenance of rights-of-way to allow continued pipeline access. Both construction and maintenance activities will fragment wetlands and plant communities and risk an increase in invasive species spread from lake to lake. This fragmentation, as well as equipment moving in and along the pipeline are, may allow invasive species to proliferate in the Project area. Consideration of the States regulations and requirements is to be included, as well as a robust assessment of the measures necessary to prevent the spread of invasive species should be included.

## **F. Restoration Effectiveness**

The EIS should consider the potential success of proposed or likely restoration methods.

## **G. Environmental Justice**

Potential harms to the Great Lakes area and the Tribes of the Anishinaabe people treaty reserved rights must also be considered through the lens of environmental justice. The ongoing danger this Project presents to the waters, animals, vegetation, and natural and cultural resources for the Anishinaabe people, puts them and other citizens ecologically, economically, nutritionally, culturally, and spiritually at risk of harm.

The issue of Missing and Murdered Indigenous Women and Girls must also be considered through the lens of environmental justice, given the disproportionate impacts faced by Indigenous female-identifying persons.

Consideration of the environmental justice implications for all residents near and around the Project area must also be made. Residents both in Michigan and on the islands may not be able to move to avoid the whole range of potential harms and impacts outlined in these and other comments. These reasons could include economic, health, and other limitations.

The failure to detail the climate effects of the proposed Project violates NEPA's provisions that require due consideration to the interests of both current and future generations.

“...the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, ... foster and promote the general welfare, ... fulfill the social, economic, and other requirements of present and future generations of Americans.”<sup>8</sup>

## **H. Income and Employment**

Tourism along Lakes Michigan and Huron, as well as hunting, fishing, and gathering treaty-ceded resources are all important economic activities for the region. Impacts to these activities from the construction, spill, and erosion risks posed by operation and maintenance of the Project must also be considered.

---

<sup>8</sup> 42 U.S.C. § 4321 et. seq.

## **I. Residential Areas and Property Values**

The impact to properties, along Lakes Michigan and Huron, and their values should be considered based on associated spills or other environmental harms. As the Project takes place in one of the Great Lakes, its watershed expands well into the State of Michigan as well as seven other states. Should harm and damage befall the waters, coastal areas, and connected watersheds the nearby residents and business owners will be affected irreparably.

## **J. Safety**

While Enbridge has safety procedures related to leak detection and spill response, the company's safety record on Line 5 and elsewhere is concerning. The EIS should robustly consider the reality of Enbridge's past safety practices along with its stated procedures. It should also require Enbridge to model the likely impacts of a spill in this watershed under different conditions (seasons, extreme weather events, spill volume, location, etc.) so that the EIS can properly address those impacts.

The issue of Missing and Murdered Indigenous Women and Girls and its connection to pipeline construction projects must also be considered as an issue of personal safety and violence.

## **K. Soils and Topography**

While other commenters with more technical expertise on this topic will likely provide more detailed comments, MEA wishes to reiterate the importance of considering the potential for slumping, erosion, sedimentation, and general instability of the Clayey Till, Silty and Clayey Lacustrine deposits, Dune Sands, and Silurian Dolomite that is present in and around the proposed Project area. The likely response of these soils to construction impacts and the potential for ongoing damage of these soils around the pipeline should be included. The EIS should also assess what techniques are needed to prevent erosion or slumping of these soil types, prevent growth of nick points within and downstream of the Project area, and to protect aquatic habitats from sediment.

## **L. Vegetation**

The EIS should consider, in coordination with GLIFWC and the Anishinaabe people, other treaty-protected plants and tribal medicines that may be impacted. Lake Michigan, as well as the other Great Lakes are home to various and unique wetlands, marshes, dunes, and beaches. The difficulty and likelihood of success of revegetation efforts along the proposed Project area should also be considered.

## **M. Water Resources**

Impacts to the watersheds, artesian aquifers, and wells connected to the Great Lakes and the Project area should be assessed. As the Great Lakes, including Lake Michigan, supply drinking water to millions of individuals,<sup>9</sup> all public and private wells with impact potential of the proposed Project

---

<sup>9</sup> Great Lakes Now, Groundwater: The Sixth Great Lake (2018), <https://www.greatlakesnow.org/2018/09/groundwater-the-sixth-great-lake>.

need to be identified and catalogued, particularly those drilled prior to 1988 for which there may not be construction information.

As the Great Lakes water is only replenished by one percent annually, the Great Lakes are not replaceable. These waters are part of an interconnected and intricate system that is vulnerable to certain risk factors,<sup>10</sup> such as Line 5.

## **N. Wetlands**

Particular attention should be paid to the effectiveness of restoration efforts proposed in wetlands, including those that will be converted from forested and shrub/scrub wetlands to emergent wetlands, as well as the success, failure, and adequacy of mitigation projects required for wetlands.

## **O. Weather**

Impacts from increasing extreme weather conditions and events based on current data trends must be taken into account, to understand how these events will affect the proposed Project.

## **VI. Summary of Short-term, Long-term, and Unavoidable Effects**

This section should robustly consider the adverse environmental impacts, as well as the economic advantages and disadvantages, which cannot be avoided if this Project is undertaken. Also, a clear discussion of the relationship between short-term environmental uses and longer-term environmental health and productivity is essential.

## **VII. Other Issues and Concerns**

In considering Enbridge's spill response planning, particular consideration should be paid to the unique difficulties posed to respond swiftly and adequately to an oil spill in the Great Lakes watershed. Spill response in inclement weather, such as heavy rain and increased water levels or during winter, with the ice and waves, would only lead to increased difficulty. Were a pipeline rupture to occur during such an inclement weather event, it would significantly slow spill response, allowing more time for oil to contaminate the watershed and potentially Lakes Michigan and Huron. Some of these same factors make discovery of smaller leaks by Enbridge employees or third parties that much more difficult. Cleanup of spills would also be challenging in this landscape, especially the wetland and dune rich areas where attempts to clean up a spill could be just as damaging as the oil itself. All of these difficulties should be considered in the EIS.

## **CONCLUSION**

MEA encourages USACE to complete a rigorous and thorough EIS on the Michigan Line 5 Tunnel Project, not only for the citizens in the surrounding areas but for the environment and all its inhabitants. The Great Lakes is of limited water supply and all potential impacts must be known so that appropriate protective measures can be considered.

---

<sup>10</sup> Great Lakes Guide, Are the Great Lakes Connected (2019), <https://greatlakes.guide/ideas/are-the-great-lakes-connected>.